REMARKS

Claims 1-104 are pending in this application. Claims 1, 93, 94 and 100, which are not amended herein, are the independent claims. Dependent Claims 86 and 87 have been amended to correct a minor typographical error.

In the Office Action, Claims 1-104 were rejected under 35 U.S.C. §103(a) as being unpatentable over May (U.S. Patent No. 6,421,653) in view of Phillips et al (U.S Patent No. 6,792,399).

Having carefully reviewed the cited art and the comments provided in the Office Action, as well as the prior prosecution in this application, applicant respectfully submits that the claim rejections are in error and should be withdrawn. Applicant requests reconsideration and allowance of the claims.

Claims 1, 93 and 94 are directed to a method of providing a market process, wherein a communication (i.e., an order as in Claims 1 and 94, or an inquiry as in Claim 93) is received from at least one trading process according to a market methodology selected from a set of market methodologies, each of the market methodologies being rules of engagement between at least two trading processes. As claimed, each of the market methodologies have values specified for (i) its time to return a price, (ii) its methodology for determining a price, and (iii) how long its price can be relied upon.

An "order umpire," as described in the present application, may be considered a formal or informal market that defines and implements the rules of engagement by which information or merchandise is exchanged between "electronic liquidity finder" programs (otherwise referred to as ELFs). As explained at page 5, lines 14-18, an umpire is formed by configuring a market program with configurations from a market provider, and executing the configured program on

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the platform of system 5 to create a "market process". This market process operates as directed by the selected market methodology as claimed.

Orders and inquiries may be received at the market process (order umpire) to return price information as appropriate. Values are specified for (1) the time for the market process to return a price, (2) the methodology of the market process for determining a price, and (3) how long the price from the market process can be relied upon.

See also page 13, line 30 to page 17, line 22, of the present application, and particularly the paragraph bridging pages 13-14, provided below with emphasis added:

> Parameters relevant to discovery include the following characteristics,specified on an umpire-by-umpire basis:
>
> **T1 Maximum time an umpire takes to return a price**
>
> **METHOD Pricing methodology (to determine price)**
>
> L In-process timer defining the maximum interval that a periodic umpire will be in-process
>
> DP Depth of prices returned (amount of price data)
>
> **T2 Amount of time for which the returned price is good (executable), that is, the returned price can be soft or instant or held for some period**
>
> FS This field may contain one of several values to represent, for example: that this umpire is always in fast symbol mode; or that this umpire may go into fast symbol mode from time to time.
>
> MM Method modifier

In contrast to Claim 1, May discloses only one market methodology. While different derivative instruments can be traded on May's system, each instrument is traded using the single

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market procedure shown in Fig. 26 and discussed in the paragraph bridging columns 50-51 of May. May is silent about a value for time taken for its market procedure to determine a price, and is further silent about the time duration in which the market procedure's price can be relied upon.

Because May's single market procedure is not a market methodology having values specified for (i) its time to return a price, (ii) its methodology for determining a price, and (iii) how long its price can be relied upon, as specifically recited in each of Claims 1, 93 and 94, the disclosure of May alone does not support a rejection of the claims. The Office Action recognizes these deficiencies in May and attempts to overcome the deficiencies by citing the disclosure of Phillips. However, Phillips is directed to different technology that even if combined with May (which combination applicant specifically denies), the combination still does not teach or suggest all of the elements recited in Claim 1.

After conceding the deficiencies in May, the Office Action states "However Phillips discloses..." and proceeds to quote Phillips at Col. 6, line 29-67, where Phillips describes contests in which contest participants can guess the future value of a designated variable, such as the exchange rate between the U.S. dollar and the Japanese yen. Based on multiple contests having different variables over different time frames at issue, the contests participants can be ranked on the relative accuracy of their guesses. The purpose, as described by Phillips (and quoted in the Office Action), is to provide more meaningful ranking of persons and their ability to guess future values of designated variables.

In support of the rejection of Claim 1, the Office Action cited all of Cols. 6 to 12 of Phillips as being pertinent disclosure. Applicant has carefully reviewed this portion of Phillips, and indeed the entire disclosure of Phillips, and does not agree that Phillips overcomes the deficiencies of May. Specifically, Phillips' use of contests and other prediction activities to

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provide more meaningful ranking techniques does not teach "market methodologies being rules of engagement between at least two trading processes, and each of the market methodologies having values specified for (i) its time to return a price, (ii) its methodology for determining a price, and (iii) how long its price can be relied upon," as claimed in Claim 1.

Applicant traverses the rejection of Claim 1 based on May and Phillips and requests reconsideration of the same. The subject matter set forth in Claim 1, and the manner in which the subject matter is arranged, is neither taught nor suggested by May and/or Phillips (alone or combined). Accordingly, Claim 1 is in patentable condition.

In support of its rejection of independent Claims 93 and 94, the Office Action repeated the same verbiage used to reject Claim 1. Where Claims 93 and 94 include elements similar to those set forth in Claim 1, applicant submits that Claims 93 and 94 are patentable over May and Phillips for the same reasons as Claim 1. The disclosures of May and Phillips alone or combined (if such combination is possible) do not teach or suggest all of the elements recited in Claims 93 and 94.

Claims 2-92 and 95-99 are also in patentable condition, both for their dependence on patentable Claims 1 and 94, and also for the subject matter they separately recite. For all the dependent claims, the Office Action cited the same portions of May (namely, Col. 5, lines 29-67; Col. 6, lines 1-67; Col. 7, lines 1-51; Col. 9, lines 6-67; and Cols. 10 to 14, lines 1-67). Applicant has considered these portions of May and does not believe these portions to be applicable. However, should the Patent Office determine to maintain the claim rejections based on May, greater particularity of explanation is needed for the subject matter in the dependent claims.

In view of the above, applicant requests reconsideration and allowance of Claims 1-99.

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Claim 100 is directed to a method of providing a market process, including detecting that a next book price will be worse than a previous book price according to a market methodology selected from a set of market methodologies, notifying a crowd of an opportunity to improve upon the next book price, receiving a crowd price from the crowd, and providing the crowd price as a response when the crowd price is better than the next book price.

The Office Action rejected Claim 100 citing precisely the same portions of May and using precisely the same arguments raised against the previous claims. The Office Action conceded that May fails to teach or suggest "each of the market methodologies being rules of engagement between at least two trading processes, and each of the market methodologies having values specified for (i) its time to return a price, (ii) its methodology for determining a price, and (iii) how long its price can be relied upon," which applicant appreciates, but this is not applicable to Claim 100.

The disclosure of May is not concerned with comparing a next book price to a previous book price, and further is not concerned with sending price improvement notifications to anyone. Applicant has considered the disclosure of Phillips and finds nothing that teaches or suggests these elements to overcome the deficiencies of May.

Accordingly, Claim 100, and its dependent Claims 101-104, are all patentably distinguished over May and Phillips.

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CONCLUSION

The disclosures of May and Phillips are defective and do not support a *prima facie* case of obviousness of Claims 1-104. Withdrawal of the rejection of Claims 1-104 under 35 U.S.C. §102(e) is requested, with an early issuance of a notice of allowance. Should the Examiner identify any remaining issues needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first-class mail with postage thereon fully prepaid and addressed to Mail Stop Amendment Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

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